

IC 4-15-2.5

Chapter 2.5. Career Bipartisan Personnel System

IC 4-15-2.5-1

Definitions

Sec. 1. As used in this chapter, unless a different meaning appears from the context:

(a) The term "director" means the state personnel director as established by IC 4-15-1.8.

(b) The term "board" means the Indiana personnel advisory board established by IC 4-15-1-1.

(c) The term "appointing authority" means the head of a department, division, board, commission, person or group of persons who has the power by law or by lawfully delegated authority to make appointments to positions in state service.

(d) The term "political affiliation" means the political party to which an individual recognizes a relationship either by act of primary election voting or by affirmation of the chairman of the state committee of the party with which the employee states he is affiliated.

(Formerly: Acts 1971, P.L.36, SEC.2; Acts 1972, P.L.33, SEC.1.) As amended by P.L.1-1991, SEC.14.

IC 4-15-2.5-1.1

Various state personnel systems to be governed by chapter

Sec. 1.1. The personnel system of the department of insurance, bureau of motor vehicles, department of revenue, department of natural resources, and department of adjutant general shall be conducted pursuant to this chapter, except that the division of audit of the department of revenue, the conservation officers of the department of natural resources, and the excise police of the alcohol and tobacco commission shall maintain the political balance established prior to July 1, 1971.

(Formerly: Acts 1972, P.L.33, SEC.2.) As amended by P.L.8-1984, SEC.4; P.L.204-2001, SEC.4.

IC 4-15-2.5-1.5

Liberal construction of chapter; legislative intent

Sec. 1.5. (a) This chapter shall be liberally construed to effectuate its policies and purposes so as to increase governmental efficiency through a career bipartisan personnel system.

(b) It is not the intent of this chapter to eliminate the merit personnel system existing on July 1, 1971, or to eliminate all patronage personnel systems. It is the intent of this chapter to provide a career bipartisan personnel system that may be implemented in a department of state government where the system would produce more efficient government and better service at less cost to the citizens of Indiana.

As added by P.L.1-1989, SEC.12.

IC 4-15-2.5-2

State personnel board; duties

Sec. 2. (State Personnel Board; Power) The state personnel board shall enforce, through the personnel director, the provisions of this chapter and shall have the power to promulgate all rules necessary for the most effective administration of a career bi-partisan personnel system as established by this chapter.

(Formerly: Acts 1971, P.L.36, SEC.2.)

IC 4-15-2.5-3

Director; duties

Sec. 3. (Director's Duties) The personnel director, in addition to all other duties imposed by law and subject to the rules promulgated by the board, shall administer the provisions of this chapter. The director shall:

- (1) conduct the entrance and promotion tests which are required for the carrying out of the provisions of this chapter;
- (2) verify the political affiliation of each applicant for employment and each employee being considered for promotion which otherwise qualify for employment or promotion; however, no applicant or employee shall be verified if the employment or promotion would disrupt or postpone the attainment of the required political balance of the department or pay classification therein unless the required political affiliation of an applicant or employee has been waived by the board;
- (3) classify all positions of employment in all agencies or institutions operating under this chapter by the procedure established by IC 4-15-2;
- (4) develop a pay plan for all employees operating under the provisions of this chapter, which pay plan shall be subject to the approval of the budget agency and the Governor; and
- (5) certify all individuals employed under the provisions of this chapter as provided by IC 4-15-2, except that:
 - (A) The director shall certify five (5) qualified applicants and indicate each applicant's political affiliation.
 - (B) If the director cannot certify the required number of individuals with the political affiliation because there are not enough individuals that qualified after testing, who are willing to accept appointment or because there are peculiar and exceptional qualifications of a scientific, professional or educational character required for the position and it is evident that the required number of individuals cannot be certified, the director may authorize the appointing authority to fill the vacancy with any individual who meets the qualifications for the position, without regard to the applicant's political affiliation.
 - (C) For positions involving unskilled or semi-skilled labor when the character or place of the work makes it impracticable to supply the needs of the service by appointments made in accordance with the procedure

prescribed by this chapter, the director may make appointments by the procedure provided by IC 4-15-2.
(Formerly: Acts 1971, P.L.36, SEC.2; Acts 1972, P.L.33, SEC.3.) As amended by Acts 1978, P.L.6, SEC.5; P.L.2-1995, SEC.4.

IC 4-15-2.5-4

Agency; political affiliation

Sec. 4. (Agency; Political Affiliation) No agency of state government that operates its personnel system under the provisions of this chapter shall have more than sixty percent (60%) of their employees, in each pay classification, insofar as practicable, as adherents to any one (1) political party.

For the taking effect of the political ratio required by this section, it shall be understood that in the interest of stability of government and continuance of service to the public, the required ratio shall be gradually achieved. The ratio required by this chapter may be accomplished at the convenience of each appointing authority, but in no event shall such be delayed beyond January 1, 1973.

(Formerly: Acts 1971, P.L.36, SEC.2.)

IC 4-15-2.5-5

Agency; report

Sec. 5. The appointing authority of each agency or institution that operates under the provisions of this chapter shall submit to the legislative council any information the legislative council requests. To the extent possible, the information must be submitted in an electronic format under IC 5-14-6.

(Formerly: Acts 1971, P.L.36, SEC.1.) As amended by Acts 1978, P.L.6, SEC.6; P.L.28-2004, SEC.42.

IC 4-15-2.5-6

Employee; political activity

Sec. 6. (Employee; Political Activity) No employee that is retained or employed under the provisions of this chapter shall be forced to contribute to any political party or be forced to participate in any political activity. However, this section shall not be interpreted to prohibit the voluntary contribution of any employee to any political party or prohibit the participation of any employee in any political activities unless such participation interferes with the employees performance or responsibility of his job.

(Formerly: Acts 1971, P.L.36, SEC.2.)

IC 4-15-2.5-7

Employment status; political affiliation

Sec. 7. (Employment Status; Political Affiliation) Employees that are either retained or employed under the provisions of this chapter may be dismissed, demoted, suspended or laid off because of their political affiliation in order to achieve the political balance required by this chapter. It is the intent of this chapter, however, to emphasize stability of government through continuity of employment and career

opportunity.
(Formerly: Acts 1971, P.L.36, SEC.2.)

IC 4-15-2.5-8

Employment status; ability

Sec. 8. (Employment Status; Ability) Any employee may be dismissed, demoted, suspended or laid off for cause. For the purpose of this chapter cause shall be any action or inaction of any employee that produces, incurs or results in the substantial diminution of the employee's ability or willingness to perform his duties, impairs the ability or willingness of any other employee of the institution or agency of state government to perform his duties or brings discredit upon the State of Indiana. Cause may include but shall not be limited to the following: intoxication on the job; physical or mental inability to perform the job requirements; personality characteristics which substantially limit the employee's or his fellow employee's ability to perform his duties, or which severely handicap the administration of the agency or institution; and, action or inaction which severely limits or prohibits the implementation of administrative policies.
(Formerly: Acts 1971, P.L.36, SEC.2.)

IC 4-15-2.5-9

Employment status; appeal by employee

Sec. 9. (Employment Status; Appeal by Employee) Any employee that is dismissed, demoted, suspended or laid off for cause may appeal such action by the procedure which is now or hereinafter provided by IC 1971, 4-15-2.
(Formerly: Acts 1971, P.L.36, SEC.2.)

IC 4-15-2.5-10

Failure to certify; pay withholding

Sec. 10. (Failure to Certify; Pay Withholding) No public disbursing or auditing officer nor other fiscal officer of the state shall draw, sign, or issue, or authorize the drawing, signing or issuing of any warrant or check upon the state treasurer or other disbursing officer of the state, for the payment of a salary or other compensation for personal services within the state service as defined by this chapter, nor shall the state treasurer or other disbursing officer of the state pay any salary or other compensation for such personal services unless a payroll or account for such salary or other compensation, containing the name of every person to be paid and the accounts to be paid him has been certified by the director or a person designated by him to the effect that the persons named on the payroll or account are either exempt from the provisions of this chapter or have been appointed or otherwise established in their positions according to the provisions of this chapter, and that the payment of the amounts shown on the payroll or account will not violate the provisions of the pay plan or the rules pertaining thereto.
(Formerly: Acts 1971, P.L.36, SEC.2.)

IC 4-15-2.5-11**Pay withholding; action by employee**

Sec. 11. (Pay Withholding; Action by Employee) Any person appointed or employed in contravention of any provision of this chapter or of any rules, regulation or order thereunder who performs service for which he is not paid, shall have and may maintain an action against the officer or officers who purported so to appoint or employ him to recover the agreed pay for such services, or the reasonable value thereof if no pay was agreed upon. No officer shall be reimbursed by the state at any time for any sum paid to such person on account of such services.

(Formerly: Acts 1971, P.L.36, SEC.2.)

IC 4-15-2.5-12**Wrongful failure to certify; action by employee**

Sec. 12. (Wrongful Failure to Certify; Action by Employee) If the director wrongfully withholds certification of the payroll voucher or account of any employee, such employee may maintain a proceeding to compel the director to certify such payroll voucher or account.

(Formerly: Acts 1971, P.L.36, SEC.2.)

IC 4-15-2.5-13**Payment in violation**

Sec. 13. (Payment in Violation) Any payment violating the provisions of the pay plan or the rules pertaining thereto, or made to a person appointed or established in his position in a manner contrary to the provisions of this chapter may be recovered from the appointing authority, the director, or any officer or person making such payment, whichever is liable, or from the sureties on the official bond for such officer or person.

(Formerly: Acts 1971, P.L.36, SEC.2.)

IC 4-15-2.5-14**Payment in violation; action for recovery**

Sec. 14. (Payment in Violation; Action for Recovery) Action for such recovery may be maintained by the board or any member thereof, any officer or employee of the state service, or any citizen of the state.

(Formerly: Acts 1971, P.L.36, SEC.2.)

IC 4-15-2.5-15**Payment in violation; money recovered**

Sec. 15. (Payment in Violation; Moneys Recovered) All moneys recovered under section 13 shall be paid into the state treasury.

(Formerly: Acts 1971, P.L.36, SEC.2.)

IC 4-15-2.5-16**Payment in violation; citizen's action**

Sec. 16. (Payment in Violation; Citizen's Action) Any citizen may maintain a suit to restrain a disbursing officer from making any

payment in contravention of any provision of this chapter, or lawful rule, regulation or order thereunder.

(Formerly: Acts 1971, P.L.36, SEC.2.)

IC 4-15-2.5-17

Veterans

Sec. 17. (Veterans) All veterans of the armed forces of the United States shall be granted a preference in employment as is now or hereinafter provided by IC 1971, 4-15-2.

(Formerly: Acts 1971, P.L.36, SEC.2.)

IC 4-15-2.5-18

Exemptions; administrative heads

Sec. 18. (Exemptions; Administrative Heads) (a) The administrative head of all state agencies that operate under the provisions of this chapter shall be exempt from the provisions of this chapter.

(b) The administrative head of all divisions, departments, institutions, or other major subdivision of a state agency, that operates under the provisions of this chapter, shall be exempt from the provisions of this chapter.

(Formerly: Acts 1971, P.L.36, SEC.2.)

IC 4-15-2.5-19

Exemptions; merit employees

Sec. 19. (Exemptions: Merit Employees) Any individual that is retained or employed in any agency which operates under the provisions of this chapter in a position which is covered by a merit personnel system or a separate bi-partisan personnel system created by statute shall be exempt from the provisions of this chapter that relate to political balance.

(Formerly: Acts 1971, P.L.36, SEC.2; Acts 1972, P.L.33, SEC.4.)

IC 4-15-2.5-20

Exemptions; other positions

Sec. 20. (Exemptions; Other Positions) (a) All positions in the state agency or any part of a state agency, which operates under the provisions of this chapter, that determine administrative policies shall be exempt from the provisions of this chapter by rules promulgated by the board.

(b) One (1) personal secretary for each position that is exempt from the provisions of this chapter by this section and section 18 shall be exempt from the provisions of this chapter.

(Formerly: Acts 1971, P.L.36, SEC.2.)

IC 4-15-2.5-21

Agency request; inclusion

Sec. 21. (Agency Request; Inclusion) The administrative head of any state agency may submit a request to the personnel director to have his entire agency or any part thereof operate under the

provisions of this chapter. Upon the approval of the personnel board and the Governor any state agency or any part of a state agency may operate under the provisions of this chapter.

(Formerly: Acts 1971, P.L.36, SEC.2.)

IC 4-15-2.5-22

Agency request; exemption

Sec. 22. (Agency Request; Exemption) The administrative head of any state may submit a request to the personnel director to have his entire agency or any part exempt from the provision of this chapter. Upon the approval of the personnel board and the Governor any state agency or any part thereof may be exempt from the provisions of this chapter.

(Formerly: Acts 1971, P.L.36, SEC.2.)

IC 4-15-2.5-23

Agency request; petition for change

Sec. 23. (Agency Request; Petition for Change) (a) The administrative head of any state agency or any part thereof that operates under the provisions of this chapter may submit a petition to the personnel board to increase or decrease the number of employees exempt from the provisions of this chapter.

(b) The board shall have the authority to decrease or increase the number of employees exempt from this chapter. However, the board shall not exempt positions which do not formulate policy and they shall not exempt policy positions if such action would impede the operation of the agency.

(Formerly: Acts 1971, P.L.36, SEC.2.)